

### **REMARKS**

Reconsideration of the present application is respectfully requested. Claims 1-63 are pending. Claims 1, 5-29, 41-48, 50, and 53-63 stand rejected. Claims 30-40 have been allowed. Claims 2-4, 49, 51 and 52 stand objected to as being dependent on a rejected base claim but would be allowable if rewritten in independent form. Claim 2 is being canceled and claims 1, 3-20, 30, 41-50 and 53-54 are being amended without prejudice to representation of the original subject matter in a continuing application. All pending claims are allowable and a prompt notice of allowance for all claims is respectfully requested.

#### **Claim Objections:**

Claim 9 has been objected to for lack of explicit antecedent basis for “the weight of the second plurality of modules.” This objection is traversed. Lack of explicit antecedent basis for a claim term does not necessarily render a claim indefinite. See MPEP 2073.05(e). This is particularly true in this case, where there is appropriate (though not explicit) antecedent basis. Weight is an inherent property of the modules, and therefore its antecedent basis is found in the recitation of the modules. See MPEP 2073.05(e) (“Inherent components of elements recited have antecedent basis in the recitation of the components themselves. For example, the limitation ‘the outer surface of said sphere’ would not require an antecedent recitation that the sphere has an outer surface.”) The objection should therefore be withdrawn.

### Claim Rejections:

Claims 1-19 stand rejected under §112 as being “confusing” based on the content of the preambles. The Action appears to suggest that confusion and/or inconsistency arises from the recitation of “a modular structure” rather than “a building.” Applicants respectfully disagree and believe that the claims as originally presented were sufficiently clear. (See e.g. MPEP 2173.05(e) “The mere fact that the body of a claim recites additional elements which do not appear in the claims’ preamble does not render the claim indefinite under 35 U.S.C. 112, second paragraph.”) However, to address the concerns in the Action, the relevant preambles have been amended to more generically recite a “system.” These non-narrowing amendments to the preambles are seen to obviate any issues of confusion or inconsistency.

Claims 1, 5-11, 12-19, 20-29, 41-48, 50 and 53-63 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gillmore (US 5,832,676) in view of Brent (US 5,695,443). These rejections should all be withdrawn.

Independent claim 1 has been amended to incorporate the limitations of claim 2. Claim 2 had previously been indicated to be allowable if rewritten in independent form. Accordingly, claim 1 and its dependent claims are patentable.

Independent method claims 20 and 54 stand rejected on the basis that the method steps are considered “to be the obvious method of setting up the device [of Gillmore in view of Brent]....” For a variety of reasons, Applicants’ respectfully disagree. However, to speed prosecution of the present case (and without prejudice to representation of the subject matter in a continuing application) claims 20 and 54 has been amended to recite that “at least two of the plurality of modules each include portions of said first and second spaced apart rigid walls, the portions defining a channel comprising a portion of the barrier zone.” This language

substantially corresponds to the language added into claim 1 from claim 2, discussed above.

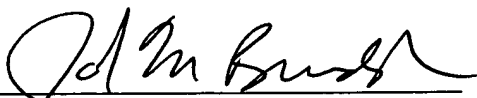
Accordingly, Applicants respectfully suggest that independent claim 20, as amended, and its dependent claims are also patentable.

The claims dependent on claims 1, 20, and 54 include all the elements of an allowable base claim. For at least this reason, the dependent claims are also patentable.

As to the remaining rejected claims, claims 41-43 and 48, 50 and 53, the Action has failed to identify and apply references that teach all the elements of the claims. Missing elements from the combination asserted in the Action include, for example, a support frame for holding a piece of radiation equipment in the central treatment area (claim 41), first and second removable sections of a module that are removably coupled to allow the radiation equipment to be removed from the treatment area (claim 42), and medical equipment mounted on a separately removable portion of a module (claim 48). Instead of asserting prior art to reject the claims, the Action appears to assert that, because the preambles recite a structure (or modular structure), these features are “not positively claimed” and therefore not entitled to patentable weight. Applicants respectfully disagree. The bodies of the claims include positive recitations of the respective elements noted above in a manner that meets the requirements of the statute. Moreover, as discussed above, the preambles of independent apparatus claims 41 and 48 have been amended to obviate the issue of confusion/inconsistency. Therefore, the elements should be given patentable weight and the rejections should be withdrawn.

In view of the forgoing, reconsideration of the present application and withdrawal of all rejection and objections is respectfully requested. Since all claims are in condition for allowance, Applicants request a prompt notice of allowance. The undersigned would welcome a telephone call from the Examiner to discuss any matters that would expedite examination.

Respectfully submitted,

By 

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